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INFO RUCNMEM/EU MEMBER STATES COLLECTIVE IMMEDIATE  
RUEHBS/USEU BRUSSELS IMMEDIATE 4827  
RUEAWJA/DEPT OF JUSTICE WASHDC IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 03 ROME 000638

SIPDIS

E.O. 12958: DECL: 06/01/2014

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SUBJECT: FRATTINI TELLS AG HOLDER ITALY FAVORS ACCEPTING  
GITMO DETAINEES

Classified By: cda elizabeth l. dibble for reasons 1.4(b) and (d)

Summary

1. (C) Attorney General Eric Holder (AG) discussed resettlement of Guantanamo detainees with Italian Foreign Minister Franco Frattini in Rome May 29 on the margins of the G8 meeting of interior and justice ministers. Frattini said the GOI "profoundly shares" the President's views on Guantanamo and identified Italy as one of six EU member states "firmly in favor" of accepting detainees. He shared his positive assessment of the EU's legal framework to be considered at the EU JHA ministerial meeting June 4, including limitations on movements through the listing of detainee names in the Schengen Information System. Frattini also proposed that the USG seek a TransAtlantic statement of principles on human rights and security in the fall under the Swedish EU presidency as a capstone to the process.

2. (C) At a press conference May 30 following the G8 ministerial, Interior Minister Roberto Maroni said, in his view, "The European Union ... should reach a unanimous decision and welcome, only if they so desire, those inmates that can be put back in jail." He expressed concern that, absent detention in Europe, former Guantanamo inmates would be free to move throughout the Schengen zone and thus represent an unacceptable increase in terrorism risk. These public comments, which are not in synch with internal EU discussions or GOI policy, play to Maroni's political base; he is a leader of the Northern League political party, which is tough on security and anti-immigration.

Review of EU Arrangements

3. (C) Frattini opened by saying that the GOI was "on the same page" with the United States. He noted that there were still a number of EU members reluctant or hostile on the issue of accepting Guantanamo detainees for resettlement, naming Austria, Germany, Slovenia, the Czech Republic, and the Netherlands. They were "raising doubts" in Europe about the whole undertaking, but Frattini assured the AG "we will persuade them" ultimately. Frattini said Germany was particularly problematic, with the atmosphere in the Bundestag quite hot ahead of elections. However he underlined that the EU was close to a solution that would accommodate everyone. Frattini said he expected EU Justice and Home Affairs ministers to reach agreement at their June 4 meeting ("we are 99 percent of the way there") on a legal framework which would lay out the conditions for individual state solutions and proposals vis--vis the United States.

4. (C) Frattini described the basic elements of the framework as: 1) a data-sharing arrangement among Schengen and non-Schengen states; 2) a voluntary agreement between the receiving states and the detainees setting terms and

conditions; and 3) a roadmap to integration of the detainees where they were settled. On the first, once the United States made a specific proposal to transfer a detainee "cleared for release," that state would circulate the name and any related data to the intelligence network of Schengen and non-Schengen states for clearance. Any objections would have to be on the basis of "public order or national security concerns," and would affect only the objecting state, i.e., that state could refuse circulation of the detainee on its territory but could not veto such on behalf of any other state. Flagging the detainee's name in the Schengen Information System (SIS) would limit the detainee's rights of movement in Europe, which seemed to be the solution, Frattini said, to meeting everyone's concerns.

15. (C) On the voluntary agreement to be signed between the receiving state and the detainee's lawyers, Frattini said the agreement would reference the detainee's USG status as well as host country conditions. Frattini noted he would have to set "preventative conditions," such as daily check-in with local police and notification of any intent to travel. Each case would have to be treated differently, with some, perhaps, being forbidden to travel abroad at all. He noted that Italy would not want to risk a detainee traveling to Somalia or the Middle East and re-engaging in terrorist acts, noting the substantial measures the GOI was obliged to put in place to keep four Palestinians (the Bethlehem Church of Nativity case) under surveillance since accepting them in 2002. As for integration of detainees, Frattini noted approvingly of news that several detainees settled by the United States in Albania were now opening legitimate businesses, saying it was critical that any detainees accepted by Italy be permitted to take up employment. He

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noted that Italy would require as part of the voluntary agreement with the detainees that they agree not to sue the United States in Italian courts.

#### Italian Political Support and Advice

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16. (C) AG Holder expressed his deep appreciation for GOI support of U.S. efforts to bring about an orderly closure of Guantanamo. He noted that FM Frattini had sketched out a highly creative approach within the EU to tackle the Schengen movement issue, and applauded Italy's role in that effort. Frattini underlined that the Italian government's point of departure was not legal but political - to show solidarity with the Obama administration. He noted that the GOI "profoundly shares" the President's views on Guantanamo. With that in mind, he suggested that the United States consider a political-level TransAtlantic declaration of principles later in the year, to frame the issue. He sketched a three-step process: the legal recommendation by EU JHA ministers on June 4; the EU Foreign Ministers' embrace of it on June 15; followed by an EU/US Foreign Ministers meeting in October/November in which ministers would issue a declaration of Transatlantic principles on human rights and security, under the Swedish EU presidency. Frattini noted that such a declaration would be a capstone for the efforts now under way to lay the legal groundwork for individual states to work with the United States on transfers. It would provide the political wrapping for all states and would be a good signal to the European public, as well. Frattini offered to raise the issue informally with Swedish FM Bildt, whom he will see on a visit to Stockholm shortly, and asked the AG to float the idea in Washington.

17. (C) Frattini also said that a number of people, particularly in Germany, were demanding to know why the U.S. could not itself take the small number of detainees thus far identified for transfer (50). Frattini said he told his colleagues regularly that it was critical that Europe showed it could be a co-producer of security, not just a consumer. It was time to share the burden, having criticized the

previous administration so harshly over Guantanamo's existence.

¶18. (C) Frattini told the AG he had established a restricted working group within the GOI (chiefs of staff of the MFA, MOJ and MOI, plus Italian intelligence). In order to facilitate its work and avoid surprises, Frattini asked that the USG informally pass to this group the names of any potential detainees for transfer to Italy ahead of a formal request. He also asked that the USG share any models it had used for voluntary agreements, noting he understood the United States had worked out a draft in transferring some 14 detainees back to the UK. He asked whether the United States had released any detainees into the U.S. and whether the AG had shared any specifics with other European governments. The AG said no to both questions.

¶19. (C) In closing, Frattini underscored that there were six European countries (Italy, France, Spain, Portugal, Ireland, Switzerland) "firmly in favor" of taking detainees. He said that they would continue to cooperate closely together and with the United States. These countries "should set the example" by expeditiously moving to individual agreements with the United States. once the EU framework was agreed upon. Frattini confirmed that "we are ready to do so."

#### Separate Treatment of Tunisian Detainees

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¶10. (C) In a short aside, Frattini said he and others in the GOI well recognized that the case of the two Tunisian detainees requested by Milan magistrates for trial in Italy and the larger Guantanamo issue were wholly separate, and should be dealt with as such.

#### Interior Minister Complains Publicly

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¶11. (C) Echoing previous objections on security grounds of accepting Guantanamo detainees, Interior Minister Maroni told the press May 30 that he believes the EU must unanimously agree to accept the detainees and that they should "be put back in jail." Maroni argued it would not be acceptable "for me" if they are free to move within the Schengen zone. Maroni, speaking on the margins of the G8 meeting of justice and interior ministers, said the United States had not yet made a formal request, no detainees had been identified, and that Italy is considering taking "not more than two or three."

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#### Comment

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¶12. (C) In his meeting with AG Holder, Frattini was forceful and adamant in expressing GOI desire to work closely and collaboratively with the United States, both in shaping EU opinion and in working out future bilateral arrangements on individual detainee cases. Notwithstanding Frattini's helpful leadership on this issue within the GOI and at the EU, he faces some political pushback from within the government. The outspoken and powerful Interior Minister Maroni and his Northern League political party have been successfully pushing an anti-immigration line within the government. Maroni has been vocal on several occasions about his skepticism about the wisdom of the EU and Italy taking Guantanamo detainees. In his initial phone conversation congratulating President Obama on his election, Prime Minister Berlusconi offered Italian assistance in resolving the detainee issue. During the President's upcoming meeting with the Prime Minister, it would be helpful to thank Berlusconi for his government's efforts thus far but also secure his recommitment to accepting detainees.

¶13. (C) Frattini also advised AG Holder not to attend the June 4 JHA ministerial because he thought those countries

opposed to the United States on this issue would simply use his presence as an opportunity to criticize the United States.

114. (U) The Department of Justice has cleared this cable.

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